

Testimony before the United States Congress on behalf of the



Testimony of

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Before the

*The House Government Reform Committee
Subcommittee on Regulatory Affairs
Hearing on Small Business Paperwork Burdens*

Paperwork: The Half-A-Trillion-Dollar Elephant

on the date of

July 18, 2006

Chairman Miller and Members of the House Government Reform Committee, Subcommittee on Regulatory Affairs:

On behalf of the 600,000 small-business owners represented by the National Federation of Independent Business, thank you for the opportunity to once again discuss with you the burden of regulatory paperwork imposed by the federal government and to offer NFIB's insights about how to improve the way in which the federal government goes about reducing the amount of paperwork filled out by America's small businesses each year.

It was just four months ago that I offered testimony on general regulatory burdens faced by small business, and I appreciate your invitation to come before you to discuss paperwork in more detail, now that we have received from the Office of Management and Budget (OMB) their annual report on paperwork, the Information Collection Budget (ICB).¹ That report denotes an increase of the paperwork burden faced by all Americans of 441 *million* hours—which, sadly enough, represents an increase overall of only 5.5 percent.²

NFIB's national membership spans the spectrum of business operations, ranging from one-person cottage enterprises to firms with hundreds of employees. Ninety percent of NFIB members have fewer than 20 employees. While there is no standard definition of small business, the typical NFIB member employs five people and reports gross sales of between \$350,000 and \$500,000 per year. However, all NFIB members have one thing in common; their businesses are independently owned.

Being a small-business owner means, more times than not, you are responsible for everything (ordering inventory, hiring employees, and dealing with the mandates imposed upon your business by the federal, state and local governments). That is why government regulations, and the paperwork they generate, should be as simple as possible.. The less time our members spend

¹ <http://www.whitehouse.gov/omb/inforeg/infocoll.html>

² ICB at i.

with “government overhead,” the more they can spend growing their business, employing more people and growing America’s economy.

Unreasonable government regulation, especially onerous paperwork burdens, continues to be a top concern for small businesses.³ Regulatory costs per employee are highest for small firms, and our members consistently rank those costs as one of the most important issues that NFIB ought to work to change. In March, I discussed with you the most recent report commissioned by the Small Business Administration’s Office of Advocacy, estimating the regulatory compliance costs for firms with fewer than 20 employees.

Five years ago, that cost averaged \$6,975 per employee, per year, but now that figure has been updated. Not only updated, but updated now with a peer review process that lends even greater credence to the research. Unfortunately for small-business owners, however, the new data isn’t good —the cost of regulation for small businesses has risen by nearly 10 percent, to \$7,647 per employee, per year.⁴ This is due in no small measure to the continued growth of the regulatory state: according to the Competitive Enterprise Institute’s Wayne Crews, the last two years have brought an average of approximately 4,000 new rules each year.⁵

This means that for one of NFIB’s average members, with five employees, those costs now approach a total of \$40,000 annually. For a business operating on a shoestring, such costs can be devastating.

My testimony is going to cover a number of different things. First, I’d like for members of the committee to get an understanding of the regulatory burden in the form of paperwork, reiterate the results of a survey from 2004 by NFIB’s Research Foundation regarding Paperwork and Recordkeeping (which I discussed in detail in March as well), and put those findings in the context of the recent ICB report. Then, I will focus on Congress’ role in dealing with this

³ In NFIB’s publication, *Problems and Priorities*, paperwork ranked 8th out of 75 major problems faced by small business.

⁴ Crain, W. Mark, *The Impact of Regulatory Costs on Small Firms*, 2005, <http://www.sba.gov/advo/research/rs264.pdf>

⁵ 4,101 final rules in 2004, 3,943 final rules in 2005. Crews, Clyde Wayne, *Ten Thousand Commandments*, 2006 edition.

problem, both from a legislative and a behavioral standpoint. Finally, I will raise the issue of other tools available to deal with this problem.

In terms of the paperwork burden imposed by regulations themselves, NFIB's own Research Foundation has conducted in-depth studies of the problem being faced by small businesses. The NFIB Research Foundation is a non-profit 501(c)(3) organization, and its research into small business economic trends and issues is highly regarded in the academic community. Their conclusion was that the best thing for small businesses is simplicity—simplicity in instructions, simplicity in requirements, and an overall reduction in the size of the paperwork and the time necessary to complete forms.

The focus of our efforts has been on simplification—small businesses have a hard time dealing with complex paperwork requirements. They need to know precisely what is required of them, and would like as short and as clear a form as possible. This sentiment was recently confirmed by the NFIB Research Foundation's recent poll of small businesses on paperwork (discussed in detail below).

The Half-Trillion Dollar Problem: Small Businesses, Paperwork, and the ICB

The NFIB Research Foundation concluded overall that the cost of paperwork averages roughly \$50 per hour. In addition, the following conclusions were reached:⁶

1. The individual(s) completing and maintaining paperwork and records in a small business is dependent on the subject matter of the paperwork and the size of the firm. Owners most frequently handle paperwork and record-keeping related to licenses and permits (55 percent of firms), purchases (46 percent), and clients/customers (46 percent). They least frequently deal with financial (27 percent) and tax (12 percent) records. Three of four pay to have someone (another firm) outside handle their tax paperwork. Paid employees customarily do most of the paperwork and record-keeping in about 25 – 30 percent of firms. Employees are much more likely to do so in larger, small businesses than in the smallest ones regardless of subject matter (except tax). Unpaid family members do the paperwork in less than 10 percent of cases.
2. The cost of paperwork also varies by subject matter and firm size. The more paperwork and record-keeping that must be sent outside, the more expensive the paperwork and record-keeping. Owners of larger small firms pay higher average prices per hour because

⁶ NFIB Research Foundation National Small Business Poll, Vol. 3, Issue 5, *Paperwork and Recordkeeping*, 12-03, http://www.nfib.com/PDFs/sbpoll/sbpoll12_2003.pdf

they are more likely to send their paperwork to outside professionals and because the value of their time on average is higher.

3. The estimated average per hour cost of paperwork and record-keeping for small businesses is \$48.72. By subject matter the average per hour cost is: \$74.24 for tax-related, \$62.16 for financial, \$47.96 for licenses and permits, \$43.50 for government information requests, \$42.95 for customers/clients, \$40.75 for personnel, \$39.27 for purchases, and \$36.20 for maintenance (buildings, machines, or vehicles).
4. The typical small business employs a blend of electronic and paper record-keeping. Less than 10 percent use paper exclusively and a handful use only electronic means. The type of record most frequently completed and maintained on paper is licenses and permits.
5. No single difficulty creates the government paperwork problem. The most frequently cited problem is unclear and/or confusing instructions (29 percent). The second most frequently cited difficulty is the volume of paperwork (24 percent). Duplicate information requests (11 percent) place third, followed by maintenance of records that ordinarily would not be kept (10 percent) and requests for inaccessible or non-existent information (9 percent). Twenty (20) percent could not decide.

While the use of computers by small businesses and small-business owners has certainly helped reduce the burden of regulations, technology alone cannot solve the problem. More than filing forms and storing copies, paperwork requirements involve understanding what the government wants and how they want it, gathering the necessary information and organizing it properly, determining what to keep and for how long, etc. Then there is the cost. Even with the most efficient computer equipment, documentation is not cheap. People must organize and input the necessary data, and people are expensive.

According to research by the NFIB Research Foundation, 92 percent of small businesses use computers in some aspect of their business. Eighty-two percent of small businesses have internet access, and of those, 57 percent have high-speed internet access. Half of the businesses that use the internet use it to find out regulatory information, and the smaller of small businesses are more likely to use the internet to educate themselves. They use it for specific searches, and to sift through information.⁷

⁷ NFIB National Small Business Poll Volume 4, Issue 8, "Telecommunications,"
<http://www.nfib.com/object/telecomm.html>

But taken in the context of the ICB, the costs continue to be startling. If you only look at the average costs our polling found, then at the most macro of economic levels, the cost of the *increase* in paperwork alone amounts to nearly \$21.5 *billion* annually!⁸ The total cost of paperwork therefore is nearly half a *trillion* dollars (roughly \$409 billion).⁹

Some people might argue that the increase in paperwork from the ICB is only 5.5 percent overall. But that only serves to mask the real issue: 441 million hours is an enormous amount of time—time that drags on everyday Americans, and \$21.5 billion is real money for real small businesses.

While some might quibble that this is only a marginal increase—one cannot deny that the baseline number is a huge one. A system that measures its paperwork burdens in the billions of hours is a system destined for collapse under all that weight. A system that hemorrhages money to the tune of a half-trillion dollars annually is going to eventually bleed itself dry.

Comparing These Costs

It is sometimes difficult to grasp the magnitude of a situation without a proper context within which to frame it. In this instance, public policy offers us a number of other programmatic costs that to which we can compare the total paperwork costs, especially for public policies that are important to Americans, having to do with public health issues and national security.

For many Americans, cancer represents a greatly-feared disease and one that significant public resources ought to be directed to curing. But while federal paperwork cost Americans nearly \$409 billion last year, the federal government spent, in comparison, 1 percent on cancer research at the National Cancer Institute, \$4.83 billion.¹⁰ Of this, \$560 million was spent on breast cancer research, \$253 million on colorectal cancer, and \$266 million on lung cancer research.

⁸ \$48.72 X 441 million hours equals \$21,485,520,000

⁹ \$48.72 X 8.2 billion hours equals \$409,248,000,000

¹⁰ <http://www.cancer.gov>

Likewise, there is a great deal of public support behinds finding a cure for AIDS, and the National Institutes of Health has created an Office of AIDS Research (OAR) dedicated to this cause. For FY2005, OAR spent \$2.9 billion.¹¹

At the other extreme, there is the issue of primary concern to the American people, defending the nation and protecting our national security. Looking at the budget for the Department of Homeland Security (DHS), we find that for FY2005 DHS actually spent just under \$40 billion.¹² That's less than a tenth of what American's spent on paperwork last year, in the middle of our War on Terror. Examining the budget in greater detail, DHS spent just under \$4 billion on preparedness, one one-hundredth of the cost of federal paperwork.

The most appropriate comparison, however, is to the greatest part of the federal budget—our overall defense spending through the Department of Defense (DOD). Here, we finally see spending that outpaces the cost of paperwork (but not by much). In FY2005, DOD actually spent just over \$475 billion – about \$66 billion more than it cost Americans to fill out their paperwork for the federal government.¹³ While that might sound like a tremendous difference, in reality, it's only around 15 percent.

A system in which citizens' spending on paperwork is roughly equivalent to 85 percent of what Americans spend on defense each and every year is a system doomed to collapse. It requires careful examination—a recognition that a serious problem exists and then taking the appropriate steps to see that problem solved.

Congress – The Root of the Problem?

Congress has been very good at examining the way in which agencies themselves create much of this burden. But largely not discussed is the role that Congress itself plays in not just creating, but exacerbating the problem. Just as budgetary policies are largely slaves to longstanding entitlement programs, paperwork and regulatory burdens find their source in the mandates

¹¹ <http://www.NIH.gov>

¹² <http://www.whitehouse.gov/omb/budget/fy2007/dhs.html>

¹³ <http://www.whitehouse.gov/omb/budget/fy2007/defense.html>

created by Congress: Congress passes more laws, and those burdens are going to greatly increase.

Just as we demand that executive branch agencies take a much harder and longer look at the regulatory and paperwork burdens that they impose, so should Congress carefully consider and examine new pieces of legislation and look ahead to the ultimate interpretation and implementation of those laws by the executive branch. The risk assessment guidelines now under consideration by the OMB are going to be one of the most important new tools that agencies will use to analyze and prioritize public policy problems—Congress must do a better job in prioritizing the pieces of legislation that it is considering. Furthermore, making policy in a crisis mode, as happens more and more frequently, often shortchanges the deliberative process. The end result is often bad public policy—public policy that is needlessly overreaching and has a tremendously impact.

This problem is further exacerbated by the linguistic gymnastics Congress goes through in crafting new legislation—an exercise which leaves us with laws that are at the same time both vague *and* complex. When Congress leaves vast doors open in the laws it creates, executive branch agencies *will* drive trucks through them. These agencies will take as much power as possible for themselves, will create regulations that are as wide-ranging as they can, and thus generate reams of additional paperwork burdens.

These agencies will take the vague and complicated legislation passed by Congress and complicate things even further—but where Congress has been vague, the agencies by law *have* to stake out a position. This is how we get a situation in which Congress passes a law saying that navigable waters of the United States can't be polluted, and the end result is that a small-business owner in Florida goes to jail for putting dry sand on an isolated patch of dry sand—and when someone challenges that interpretation, it takes nearly two full decades for his or her claim to be vindicated.¹⁴

¹⁴ cf. *Rapanos, et.al. v. United States* (2006). The plaintiff in that case, John Rapanos, was ultimately victorious in his claim that the wetlands at issue weren't subject to federal regulatory control. It took him eighteen years to have that decision made. <http://www.supremecourtus.gov/opinions/05pdf/04-1034.pdf>

Yes, the executive branch has the power to interpret the laws made by Congress. But Congress must take responsibility in crafting laws that have clear intentions, clear language, and leave little room for tortuous twisting.

Legislative Solutions Directed at Reducing the Burden

Regulatory Sunsetting: The Current Congressional Proposals

There are three primary areas in which we can work to fundamentally reduce the burden of federal regulatory paperwork: Congress' passing of legislation (discussed above), review of regulations coming down the pipeline (discussed further below) and taking steps to address that which is already on the books. In fact, while we recognize that working hard to address potential burdens of regulations that haven't been implemented is essential, if we do nothing to deal with the burden of regulations that are already with being wrestled with by the American public, then the problem isn't going to be solved.

Again, looking at the ICB, added paperwork burdens were 5.5 percent of the total burden, or 441 million hours. Assuming for a moment that we simply eliminated that burden, and didn't implement any new regulations that caused an increase to the paperwork burden, we'd still be left with 100 percent of the paperwork burden that currently exists, the entire 8.5 billion hours.

Clearly, something must be done to deal with the myriad of regulations currently on the books, and while Section 610 of the Regulatory Flexibility Act mandates that agencies review "economically significant" regulations within ten years of their implementation, the problem isn't limited to regulations of economic significance. No, the problem has always been more of the plethora of regulations a small business is subjected to—individually, they may not amount to much, but taken together they pose a tremendous burden. Unfortunately, agencies have little incentive and little guidance to do proper "610 reviews."

NFIB suggests that Congress consider the mandate that every federal regulation be reviewed for their impact and effectiveness within a certain period of time. Any regulation that is not so reviewed would automatically sunset, and for a regulation to remain in place, its existence would have to be justified.

My colleague, Tom Schatz from Citizens Against Government Waste, had this to say about sunset provisions:

For those in Congress who are committed to cutting wasteful spending, a federal Sunset Law is a powerful tool. No longer will federal agencies, once created, assume immortality. Sunsetting shifts the burden of proof, forcing agencies to regularly justify their existence to American taxpayers who will have a real say in whether they deserve our precious tax dollars.¹⁵

In the real world, businesses are constantly reviewing their “best” practices, to see what works, what doesn’t, what is a drain on the business, etc. Not only is there no reason for the federal government to not be doing this, it is a disservice to the American people that they do not do it. Improving on the way government impacts the private sector should be a top priority.

Full-funding for OIRA

Leadership has to come from the top, and when it comes to federal regulatory policy, the Office of Information and Regulatory Affairs (OIRA) at the OMB provides that leadership. OIRA acts as a gatekeeper for all new regulations, and has been particularly instrumental in ensuring that the most burdensome regulations are re-thought by the agencies proposing them.

There has been some criticism by opponents of paperwork reduction and regulatory reform regarding this gatekeeping role. Opponents claim that this role was never mandated by Congress, and is a case of overreaching by the executive branch. But this criticism ignores the very history of OIRA itself, as admitted by OMBWatch in their review of the March hearings on regulatory reform: “James Miller, who was the first OIRA Administrator, and the first to link paperwork and regulatory reviews.”¹⁶

¹⁵ Tom Schatz, President of Citizens Against Government Waste, statement in support of *The Federal Sunset Act*, <http://www.house.gov/brady/PressArchives/pr91498.htm>

¹⁶ <http://www.ombwatch.org/article/articleview/3346>

Since its inception, in other words, OIRA has been involved in reviewing regulations. After all, OIRA is the Office of Information *and Regulatory* Affairs. For OIRA to *not* review regulations would turn its very name on its head!

Unfortunately, almost immediately since its founding, OIRA's resources have been ham-strung. Budgets and staff have, over the years, been cut back. This has hampered OIRA's ability to do all that needs to be done in ensuring a sensible regulatory state with minimized paperwork burdens. At the same time that the OIRA has been experiencing cut-backs, the population of those who create new regulations has continued to increase dramatically.

Short-changing OIRA comes at a high price to the regulated public (e.g. NFIB members and small-business owners as a whole). For instance, in prior testimony to the House Government Reform Committee, there has been a great deal of discussion regarding "bootleg" regulatory forms. These are forms that individual agency offices create for the regulated community to use, but are not vetted through the required paperwork processes. An OIRA that is crippled by a lack of resources cannot adequately assess paperwork burdens, let alone ferret out which agencies might be surreptitiously adding to that paperwork burden through the use of bootlegs.

Congress must act to rebuild OIRA's resources. A reinvigorated OIRA can once again expand its review of regulations and the burdens imposed by them. A reinvigorated OIRA can comprehensively assess the impact of regulations on small business on an annual basis, instead of focusing on a narrow slice or subset of those regulations, as is currently the case. Advocates for small business and other groups have repeatedly voiced their concerns in recent years over this, and OIRA has responded by saying that because their resources are limited, they have to focus on the regulatory burden in this way.

As I said above, for regulatory burdens to be reduced, a number of things have to happen. Step one is a proper assessment of those burdens, and a proper reassessment on an annual basis. Responsibility for that falls squarely on OIRA's shoulders.

Strengthen Provisions on Unnecessary Duplication

The problem of duplicative paperwork goes hand-in-hand with the issue of ease of access to regulatory compliance information. Currently, it is next-to-impossible for the federal government to ascertain what information is duplicatively required from one agency to the next. Because it is so difficult, despite mandates that inquiries into duplicative requirements be done by agencies during the promulgation of rules or during the collection of information, agencies are hard-pressed to do it.

These rules have to be strengthened. It is maddening for a small-business owner to fill out a series of regulatory forms for one agency, and then transfer that information in a similar, but slightly different form, for another agency. It is frustrating, and it is time consuming – and time is the most precious commodity that a small-business owner has.

If Congress takes a leadership role on the implementation of the Business Gateway System, then it should put rules into place which would address the issue of duplication, before and during the Business Gateway development process. Part and parcel of any electronic system should be the recognition that information being collected and used for one agency as part of the regulatory process should be checked, and if possible, translated for use by another agency.

Limit the Number of Information Collection Requests

Small businesses are constantly being bombarded by requests for information from federal agencies. These “Information Collection Requests” or “ICRs” add greatly to the paperwork burden associated with regulation, and ought to be limited sharply. Were Congress to limit the number of ICRs agencies could put forth in any given year, it would force agencies to prioritize the use of ICRs, and therefore only bother small-business owners when it was absolutely necessary.

Small-business owners cannot do everything that they want to do within a given year. They are limited by time and by resources. Therefore, they have to prioritize which things are essential or important for their business’ success. So it should be with federal agencies and their requests for information.

As Congress explores how to lessen the impact of paperwork burdens on small business, it is worthwhile to encourage the regulatory agencies to examine more closely how to reduce the burdens imposed by ICRs. Some have suggested limiting agencies to a specific number of collection requests each year. Others have recommended that OIRA develop stricter criteria that ICRs must meet before being approved for use. Still, others have suggested that like the small businesses which will have to comply with the ICR, that agencies prioritize which ICRs are of the most significance or the highest priority. This suggestion is certainly reasonable and would be worthy of additional discussion as Congress moves forward with this process.

Of further help would be some demonstration on the part of federal agencies that when they have decided to seek information from small businesses that they have made an effort to minimize that ICRs impact. This could be done in a variety of ways, but NFIB suggests that the agency demonstrate this through some certification to OIRA or the SBA's Office of Advocacy that it has been done.

Once the Business Gateway is created, all ICRs should be made available therein. In the interim, at the very least, ICRs ought to be put on the Regulations.Gov website for public availability.

Guidelines for Paperwork Impact Analyses and Mandates for Reduction

Agencies must do a better job at gauging the impact of paperwork on individuals and small businesses. Much in the same way that agencies are required to measure economic impacts, impacts on property rights, etc, NFIB suggests that Paperwork Impact Analyses ought to be conducted. If new regulations require reporting, then a measurement of the impact of the paperwork associated with the regulations should be done.

But because of lopsided implementation of current mandates by federal agencies, government-wide guidelines must be created. These guidelines would mandate that agencies set out:

- (a) the quantity of paperwork that might be generated from the regulation;
- (b) the amount of time dedicated to paperwork associated with the regulatory compliance;

- (c) the cost of compliance (financial) to meet the paperwork burden resulting from the regulation;
- (d) An assessment if the paperwork burden will impose a significant/unique hardship for small business.

If that assessment will impose such a hardship, the agency proposing the regulation will be required to send a statement of justification to the SBA's Office of Advocacy so that it can be a part of a Regulatory Flexibility Analysis.

Congress should also set meaningful goals for agencies to reduce paperwork, based in no small part on those impact analyses.

Application of Data Quality Act to SBREFA and PRA Requirements

The Small Business Regulatory Enforcement Fairness Act (SBREFA) created a series of tools that have proved invaluable in the effort to craft regulations that are fairer for small business. A number of these provisions are judicially reviewable.¹⁷

But challenging agency determinations under the Administrative Procedures Act has been somewhat elusive for small businesses negatively impacted by new regulations. Agencies are still given tremendous deference in the defense of their reviews. A vital tool in that regard would be the Data Quality Act.

Ensuring that the Data Quality Act applies to all aspects of regulatory and paperwork certifications and reviews means that challengers to agency action can question the underlying analytical assumptions surrounding decisions, in addition to the analyses and the decisions themselves.

Technological Responses: E-Docketing and the Business Gateway

To its credit, the federal government has recognized that technology can provide a number of solutions to the federal regulatory and paperwork burdens. Two separate tracks, very different, and important in their own way, are being pursued: one dealing with increasing participation and

¹⁷ A list of those is available at http://www.sba.gov/advo/archive/sum_sbrefa.html.

making the formulation of rules more streamlined (e-docketing); the other meshing technological tools with the problem of regulatory understanding, compliance, and paperwork burdens (the Business Gateway).

It is unfortunate that the federal government initially got their priorities backwards, focusing initially on e-docketing and e-democracy rather than putting more resources towards the Business Gateway. NFIB supports the federal government in attempting to open up the regulatory process to more perspectives--the promise of e-docketing is that it will make it easier for small businesses and individuals to offer their thoughts on proposed rules. By offering a "real world" perspective, career civil servants can make regulations that are smarter and more meaningful. What's more, electronic docketing is an excellent tool for those doing the regulatory decision-making, in that it makes it easier for regulators to break down and analyze comments.

But as discussed earlier, the problem is that too many small businesses are spending too much time doing federal paperwork already, and it is simply too much to ask of them right now to take additional time and resources to comment on a complex regulatory proposal. Sure enough, there are some businesses and individuals that will comment, and the regulatory state can only benefit from their expertise, but the executive branch must reduce burdens elsewhere if they hope to invest a more substantial set of the population in the rulemaking process.

This is why we believe that more resources should have been directed earlier on to the Business Gateway project (once called the "Business Compliance One-Stop" or BCOS). The Business Gateway is a good step in this direction, and a greater emphasis must be placed on the continued development and implementation of this system, and NFIB is heartened that the next generation of this project will be coming on-line in October (NFIB has been and will continue to be an active participant in the development and implementation of this program).

Everyone involved in regulation: the regulated community, activist stakeholders, members of Congress and their staffs, the federal agencies and their personnel, all must ask the same question—what is it that we want from the regulated community, in the end?

The answer, at least in our estimation, is simple: we want the regulated community (again, our members and the small-business community as a whole) to understand its responsibilities when it comes to regulatory compliance and comply with those regulations that apply to them. What's more, our members want to be in compliance with the law. They want to keep their workers and their communities safe and secure, and the last thing they want is for a government inspector to show up at their offices and fine them for some transgression.

Unfortunately, the regulatory state is so complex (consider in your minds, for a moment, the wide expanse that is the Code of Federal Regulations, and just what a small-business owner would need to do to figure out his responsibilities) that it is next-to-impossible for any small business to be in compliance with 100 percent of the law 100 percent of the time.

But imagine a system in which a small-business owner could enter some simple information about his business: his industrial classification code, for instance, a zip-code, number of employees, etc. As discussed above, 92 percent of small businesses have computers, most with internet access (the majority of it high-speed), so the vast majority of businesses could do this if they so chose to do it.

Then the system takes that information and spits out each and every regulation that applies to this business, along with simple compliance information (no more than a few pages of easy-to-understand English, I would hope). It would be even better if this system could provide an on-line access for small businesses to submit forms, should they choose to submit them that way (the operative word being "choose" – not mandate).

Yes, this is an ambitious idea. But in an era in which huge databases can be accessed from thousands of miles away in a safe, secure, and fast manner, it is not an impossible task. The current iteration of the Business Gateway, Business.gov, is a solid step in the right direction. But it must do more, far more, in terms of offering a simple way for businesses to determine what their regulatory responsibilities are, and to make living up to those responsibilities as easy as possible. NFIB looks forward to seeing the next iteration of Business.gov in October, as well as each and every iteration of it, as it moves towards the full-measure of what it ought to be.

What it will take is leadership from Congress: funding, oversight, and the political will to see it happen.

If Congress is serious about reducing paperwork, then it must do something about making the fully-functional, fully-realized Business Gateway a reality. Once that is established, and businesses know their responsibilities, and compliance is made as simple as possible, then businesses will not only have the time and resources to devote to helping the government craft smarter regulations, they will have an incentive to be invested in the process.

Not all businesses would do it (not all businesses have computers), so the option to find out about regulations in the traditional manner would still have to be in place. In fact, there are a number of small businesses that will never be on computers¹⁸ (which is why NFIB continues to advocate for the position that when agencies desire to work with the public via computers, it is a voluntary and not mandatory program). But such a system would be far superior than that which is available to small-business owners today, and a tremendous leap in seeking greater regulatory compliance.

Until then, however, the benefits of technology, whose primary purpose is e-docketing, accrue mostly to those who work in government.

Conclusion

The ICB makes it clear that there is no debate to be had over the fact that there is a tremendous paperwork burden faced by Americans. The academic community might argue over the details, there might be some question as to the methodologies used, what ought to be counted, what role technology might play in alleviating the problem, but the problem still remains. OMB's estimate of 8.5 billion hours is a vast number (even a percentage-point increase in annual paperwork

¹⁸ In fact, in recent conversations with NFIB field personnel, I learned that our organization has a number of members who are Amish small-business owners. Clearly, these are small businesses that will never be using computers in their daily work, and any move to make computer communications mandatory (or any other sort of mandatory electronic interaction) would be grossly unfair to them.

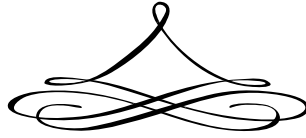
represents an addition burden of nearly *a hundred million hours*).¹⁹ The number is so huge, so vast, that even if it is being grossly overestimated by OMB, it would still be a tremendous burden.

The time has come to stop debating the existence of this problem and take steps to address it. Americans, especially American small businesses, cannot continue to shoulder this burden. Congress needs to examine its own practices, recognize that it, too, has a role to play in exacerbating this burden. It needs to assume greater oversight responsibilities, forcing the agencies to take the necessary steps to reduce their share of the burden.

Finally, Congress can show additional leadership on this issue—fully funding the programs that are and will be the most successful in reining in the problem of out-of-control paperwork, and passing legislation designed to give the agencies and the regulated community the tools they need to bring some sensibility to the regulatory state.

Thank you once again for the opportunity to testify on this important issue.

¹⁹ 441 million hours divided by 5.5 is 80.1 million hours.



NFIB CORE VALUES

We believe deeply that:

Small business is essential to America.

Free enterprise is essential to the start-up and expansion of small business.

Small business is threatened by government intervention.

An informed, educated, concerned and involved public is the ultimate safeguard.

Members determine the public policy positions of the organization.

Our employees, collectively and individually, determine the success of the NFIB's endeavors, and each person has a valued contribution to make.

Honesty, integrity, and respect for human and spiritual values are important in all aspects of life, and are essential to a sustaining work environment.



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